

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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THE STATE OF ARIZONA,  
*Appellee,*

*v.*

JESUS RAFAEL VIRRUETA,  
*Appellant.*

No. 2 CA-CR 2015-0401  
Filed June 27, 2016

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THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

*See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.*

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Appeal from the Superior Court in Pima County

No. CR20135033005

The Honorable Scott Rash, Judge

**AFFIRMED AS CORRECTED**

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COUNSEL

Dean Brault, Pima County Legal Defender  
By Scott A. Martin, Assistant Legal Defender, Tucson  
*Counsel for Appellant*

STATE v. VIRRUETA  
Decision of the Court

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MEMORANDUM DECISION

Judge Espinosa authored the decision of the Court, in which Presiding Judge Howard and Judge Staring concurred.

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ESPINOSA, Judge:

¶1 Following a jury trial, appellant Jesus Virrueta was convicted of one count of conspiracy, one count of conducting an illegal enterprise, two counts of selling a dangerous drug, and two counts of selling a narcotic drug. Virrueta absconded before the last day of his trial and, after he was returned to custody, the trial court found he had three historical prior convictions and sentenced him to enhanced, concurrent, presumptive prison terms, the longest of which is 15.75 years.<sup>1</sup>

¶2 Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), stating he has reviewed the record and found no “tenable legal issue to present on appeal.” Consistent with *Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d at 97, he has provided “a detailed factual and procedural history of the case with citations to the record,” and he asks this court to search the record for any potential error he may

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<sup>1</sup>Although Virrueta delayed his sentencing for more than ninety days by absconding, nothing in the record before us establishes he had been informed before trial that, pursuant to A.R.S. § 13-4033(C), his voluntary absence could result in forfeiture of his right to appeal from a judgment of conviction. Accordingly, we consider his appeal. See *State v. Bolding*, 227 Ariz. 82, ¶ 20, 253 P.3d 279, 285 (App. 2011) (waiver of right to appeal pursuant to § 13-4033(C) requires that defendant “has been informed he could forfeit the right to appeal” by absconding).

STATE v. VIRRUETA  
Decision of the Court

have missed in his review. Virrueta has not filed a supplemental pro se brief.

¶3 We view the evidence in the light most favorable to sustaining Virrueta's convictions, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), and conclude sufficient evidence supports the jury's verdicts. *See* A.R.S. §§ 13-1003, 13-2312, 13-3407(A)(7), 13-3408(A)(7). After purchasing cocaine from Virrueta's sister, an undercover detective asked her about purchasing larger quantities of heroin and methamphetamine and was told Virrueta "handle[d] the bigger stuff." She then introduced the detective to Virrueta, who sold the detective methamphetamine on one occasion, heroin on a second occasion, and methamphetamine and heroin on a third occasion.

¶4 The state established Virrueta's historical prior felony convictions through testimony and documentary evidence, and we conclude Virrueta's sentences were authorized by statute and were properly imposed. *See* A.R.S. §§ 13-703(C) and (J), § 13-1003(D), 13-2312(D), 13-3407(B)(7), 13-3408(B)(7). However, in the course of our review, we noticed a clerical error in the trial court's sentencing minute entry, which refers to Virrueta's conviction for conducting an illegal enterprise as a class two felony. We therefore correct the sentencing minute entry to reflect Virrueta's conviction and sentence for conducting an illegal enterprise as a class three felony, as reflected in the indictment, the verdict, and the sentencing hearing transcript, as well as in the sentence imposed. *Cf. State v. Lopez*, 230 Ariz. 15, n.2, 279 P.3d 640, 643 n.2 (App. 2012) (when sentencing court's intent is clear from record, "we need not remand for clarification").

¶5 In our examination of the record, we have found no reversible error and no arguable issue warranting further appellate review. *See Anders*, 386 U.S. at 744. Accordingly, Virrueta's convictions and sentences, as corrected, are affirmed.